

IN THE U.S. PATENT AND TRADEMARK OFFICE

Application No.: 09/850,301

Filing Date: May 7, 2001

Applicant: Mark A. Terrible

Group Art Unit: 2141

Confirmation No: 2198

Examiner: Le Hein Luu

Title: TECHNIQUE FOR ANALYZING INTERNET TRAFFIC TO
SELECT HOT SPOTS

Attorney Docket: 129250-002069/US

APPLICANT'S REPLY BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window

May 21, 2007

Randolph Building

401 Dulany Street

Alexandria, VA 22314

In response to the Examiner's Answer mailed March 30, 2007 the Applicant submits the following Reply.

ARGUMENTS:

**(i) Chauvel Does Not Disclose or Suggest
"Replaceable and Irreplaceable" Entries**

As the Appellant pointed out in his opening brief, the Examiner does not appear to have addressed the shortcomings of Chauvel raised by the Appellant in his previous responses; this is still the case because the Examiner did not address these shortcomings in the Examiner's Answer ("Answer") as well.

In the Answer, the Examiner appears to take the position that although neither Percy nor Doyle discloses or suggests the selection of an entry from a set of replaceable entries in a table, where the table includes both replaceable and irreplaceable entries as in claims 1-15 and 37-40, such a table is nonetheless well-known as exemplified by Chauvel. The Examiner cites column 1, lines 46-52 in Chauvel in support of this position.

However, neither the excerpts cited by the Examiner nor any other part of Chauvel discloses or suggests a table that includes both replaceable and irreplaceable entries.

In fact, as the Appellant pointed out in his opening appellate brief, while the excerpt cited by the Examiner appears to disclose some type of irreplaceable entry (e.g., Chauvel's "locked entries"), it does not disclose or suggest replaceable entries.

Further, Chauvel explicitly states that a cache system that uses such locked entries is undesirable because it further reduces the efficiency of a cache. Said another way, Chauvel explicitly teaches away from using irreplaceable entries to operate a cache.

Yet further, instead of using replaceable and irreplaceable entries to store data in a cache or the like, Chauvel appears to use and/or configure additional cache "subsystems" or "RAM set caches". As such, Chauvel has little need to use or distinguish between replaceable and irreplaceable entries because when Chauvel needs additional cache space it uses additional cache memory, instead of writing over or replacing, replaceable data.

In sum, rather than being well-known as the Examiner alleges, the claimed selection of an entry from a set of replaceable entries in a table, where the table includes both replaceable and irreplaceable entries, is novel. Because the Examiner has not presented any persuasive evidence to the contrary, the Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 1-15 and 37-40.

(ii) Peercy Does Not Disclose or Suggest An "Audio File"

In Appellant's opening brief, the Appellant pointed out that the excerpt from Peercy (column 2, lines 19-31) relied on by the Examiner did not disclose an audio file, cached resource as in claims 38, 40 and 42.

APPELLANT'S BRIEF ON APPEAL
U.S. Application No.: 09/850,301
Atty. Docket: 129250-002069/US

In the Answer the Examiner takes the position that Peercy's mention of an HTML page is an inherent disclosure of a multimedia, audio file. Appellant respectfully disagrees.

First, Peercy is directed to the creation of web page "hotlists" and the "bookmarking" of URLs of web sites. It is not directed to the caching of audio or multimedia files.

Second, while an HTML-formatted page may include audio information, by no means is the phrase "HTML" synonymous with such information, nor must an HTML page include such information, as the Examiner appears to suggest.

For the Board's reference, the following Wikipedia definition (see <http://en.wikipedia.org/wiki/HTML>) for HTML does not refer to audio or multimedia information; in fact, it defines HTML as a "means to describe the structure of text-based information":

HTML, short for *Hypertext Markup Language*, is the predominant markup language for the creation of web pages. It provides a means to describe the structure of text-based information in a document — by denoting certain text as headings, paragraphs, lists, and so on — and to supplement that text with interactive forms, embedded images, and other objects. HTML is written in the form of labels (known as tags), surrounded by less-than (<) and greater-than signs (>). HTML can also describe, to some degree, the appearance and semantics of a document, and can include embedded scripting language code which can affect the behavior of web browsers and other HTML processors.

Accordingly, the Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 38, 40 and 42.

APPELLANT'S BRIEF ON APPEAL
U.S. Application No.: 09/850,301
Atty. Docket: 129250-002069/US

Conclusion:

For the reasons stated above and in Appellant's opening brief, the Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 1-20, 22-31 and 33-42.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By: 

John E. Curtin, Reg. No. 37,602
P.O. Box 1995
Vienna, Virginia 22183
(703) 266-3330